

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Dwight Xavier Jones,	)	C/A No. 5:11-754-RBH-KDW
	)	
	)	
	)	
vs.	)	
	)	Report and Recommendation
Melody James, Cayce Magistrate Court Judge; PSO )	)	
Bradoc; Cayce Public Safety; Major Quig, Lexington )	)	
County Detention Center; Captain O'Neil, Lexington )	)	
County Detention Center; Patsy McDaniel, Lexington )	)	
County Detention Center,	)	
	)	
	)	
Defendants.	)	
	)	

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Plaintiff proceeding pro se brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. This Court has previously directed that the Complaint be served on Defendant Patsy McDaniel; however, the attempted service upon Defendant McDaniel at Lexington County Detention Center (“LCDC”), 521 Gibson Rd, Lexington, SC 29072, by the United States Marshal’s Service was returned because Ms. McDaniel is no longer employed at LCDC. By Order dated July 16, 2012, Plaintiff was instructed that under Federal Rule of Civil Procedure 4(m) that this court must dismiss an action against a particular defendant who was not served within 120 days after the complaint was filed. ECF No. 120. Plaintiff was directed to provide the Clerk of Court, within twenty days from the date of the Order, with an updated service form with a correct address for Defendant McDaniel should he desire to attempt service upon Defendant McDaniel again. *Id.* On July 27, 2012, Plaintiff provided a letter and an updated service form which again listed Defendant McDaniel’s address as LCDC, 521 Gibson Road, explaining that he has written to District Court of the United States, both Columbia and Florence divisions, concerning the service of Defendant McDaniel and noting that the clerk should “find Patsy if you [about] Justice.” ECF No. 124, 125.

Rule 4(m) of the Federal Rules of Civil Procedure provides that unless a particular defendant is served within 120 days after the complaint is filed, this court must dismiss an action without prejudice as to that particular defendant. *See* Rule 4(m), Fed. R. Civ. P. Because more than 120 days has passed since the filing of Plaintiff's Complaint, and Plaintiff has not provided the Clerk with a valid address for Defendant McDaniel, the undersigned recommends that Defendant McDaniel be dismissed from this action without prejudice.

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Kaymani D. West". The signature is written in a cursive, flowing style.

August 1, 2012  
Florence, South Carolina

Kaymani D. West  
United States Magistrate Judge